

Article - Natural Resources

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§4-701.

(a) Except as provided in § 4-701.1 of this subtitle, this section applies to any person who is required under this subtitle or Subtitle 2, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) (1) Except as provided in § 4-701.1 of this subtitle, the Department shall utilize a single, commercial license, to be known and designated as a tidal fish license.

(2) A tidal fish license authorizes a licensee:

(i) To engage in each activity indicated on the license; and

(ii) For catching blue crabs, to utilize the number of crew members authorized under § 4-814 of this title.

(3) Except for a person receiving a license as a beneficiary of a deceased licensee under subsection (k)(4)(i) of this section, the Department may not issue a tidal fish license to an individual who is younger than 14 years of age.

(4) A person may not guide fishing parties or catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section.

(c) (1) The license year for every tidal fish license shall be 12 months from September 1 through August 31 of the following year.

(2) A licensee and crew members may engage only in those activities for which the annual fees for that license year have been paid.

(d) (1) The Department may issue no more than one authorization to a person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection during a license year.

(2) (i) On a tidal fish license, the Department may issue an authorization for any of the following activities for which the indicated fee has been paid.

(ii) The following annual fees for an authorization shall apply regardless of when the license is issued or an activity is authorized:

1. To provide services as:
 - A. A fishing guide in the tidal waters of Maryland – \$100 for a resident and \$200 for a nonresident; and
 - B. A master fishing guide, in addition to the fee under item A of this item – \$100 per vessel;
2. To catch for sale fish with equipment which is legal under this title:
 - A. Finfish:
 - I. Hook and line only, anywhere – \$100; and
 - II. All other equipment – \$150;
 - B. Blue crabs:
 - I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and scrapes – \$100; and
 - II. Over 50 pots, plus any other gear listed in item I of this item – \$150;
 - C. Clams – \$100;
 - D. Oysters – \$250 for a dredge boat and \$100 for other than a dredge boat;
 - E. Conch, turtles, lobster, and all crabs of the genus Cancer – \$100; and
 - F. For all activities in item 1A of this subparagraph and in items A through E of this item, unlimited tidal fish – \$300;
3. For one or two crew members employed under § 4–814 of this title to enable a licensee to catch blue crabs under item 2BII and F of this subparagraph with more than 300 pots, the licensee shall pay an additional:
 - A. \$100 for up to 600 pots total per vessel; or

B. \$150 for up to 900 pots total per vessel;

4. For a person to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal waters of Maryland, seafood dealer:

A. \$50 for a person licensed under item 2 of this subparagraph or § 4-701.1 of this subtitle; or

B. \$250 for a person not licensed under item 2 of this subparagraph; and

5. For a person who is not licensed under this section to land fish caught in out-of-state tidal waters, seafood landing – \$350.

(e) (1) Before catching fish for sale under an authorization issued under subsection (d)(2)(ii)2 of this section, a tidal fish licensee shall obtain a harvester registration from the Department.

(2) The annual fee for a harvester registration is \$215.

(3) A harvester registration is nontransferable.

(f) For a tidal fish license, the Department may issue a permit for any of the following activities for which the indicated annual fee has been paid:

(1) To catch for sale:

(i) Striped bass:

1. \$200 for a licensee authorized under subsection (d)(2)(ii)2A of this section; or

2. \$150 for a licensee authorized under subsection (d)(2)(ii)2F of this section;

(ii) Yellow perch: \$25;

(iii) Horseshoe crab: \$25;

(iv) Black sea bass: \$25;

(v) Summer flounder: \$25; or

(vi) Snapping turtle: \$25.

(2) The Department may establish by regulation a permit and an annual permit fee not exceeding \$25 for any species not subject to a permit under this subsection.

(g) (1) (i) A person may not catch oysters for sale without:

1. Possessing a valid license under this section;
2. Paying an annual surcharge of \$300; and
3. Certifying to the Department that the person received the publications required under § 4–1006.2 of this title.

(ii) The Department shall use the surcharges collected under this paragraph only for oyster repletion activities.

(2) In addition to the normal license fees imposed under subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual surcharge in the following amounts to be credited to the Seafood and Aquaculture Products Marketing Fund established under § 10–1002 of the Agriculture Article:

(i) To fund only the marketing of wild-caught seafood, \$20 for a licensee authorized under subsection (d)(2)(ii)1, 2, 3, or 5 of this section, if the licensee is not also authorized under subsection (d)(2)(ii)4 of this section; or

(ii) To fund only the marketing of wild-caught seafood and aquaculture products, \$50 for a licensee authorized under subsection (d)(2)(ii)4 of this section, regardless of whether the licensee is also authorized under subsection (d)(2)(ii)1, 2, 3, or 5 of this section.

(3) (i) 1. In this paragraph, “fishing activities” means those activities that are directly related to catching fish.

2. “Fishing activities” does not include the activities of buying, selling, processing, transporting, exporting, or similarly dealing in fish.

(ii) For every nonresident license issued under this subtitle and Subtitles 8 and 9 of this title, except under subsection (d)(2)(ii)1A of this section, the Department shall assess an annual surcharge in addition to the normal license fees imposed by this subsection, which shall be the greater of:

1. An amount equal to the difference between the total fees charged to a Maryland resident engaged in like fishing activities in the state of residence of the nonresident applicant and the total of normal license fees for fishing activities in Maryland; or

2. \$450.

(h) The Department may assess annually on every person licensed under subsection (d)(2)(ii)2 of this section a surcharge for the costs incurred by the Department for:

(1) Fish tags issued to the licensee; and

(2) The use by a licensee of a hailing system.

(i) (1) The Department shall accept applications for new authorizations to participate in fishing activities under subsection (d)(2)(ii)1 or 2 of this section from qualified persons and maintain a waiting list of candidates for each fishing activity in order of the date and time that applications are received.

(2) An applicant for a license to provide services as a commercial fishing guide in tidal waters of the State shall supply as part of the application verifiable references to any federal license that is issued by the U.S. Coast Guard to operate a vessel carrying passengers for hire in the applicant's name, as a condition precedent to engaging as a commercial fishing guide in tidal waters.

(j) (1) The Department may set by regulation targets for the number of tidal fish license authorizations under subsection (d)(2)(ii) of this section to be the number issued between September 1, 1998 and March 31, 1999. The Department may modify by regulation the target number of authorizations based on:

(i) Recommendations of the Tidal Fisheries Advisory Commission;

(ii) Recommendations of fishery management plans adopted by the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fisheries Management Council, or any other appropriate management body;

(iii) The number of people historically participating;

(iv) Target species, size, number, weight, incidental catch, total biomass, annual harvest, mortality rates, and other factors which are necessary and appropriate; and

(v) The number of authorizations relinquished to the Department under subsection (m) of this section.

(2) (i) The Department shall by regulation limit the total number of commercial authorizations to fish for striped bass not to exceed 1,231 participants in the commercial fishery and 499 participants in the charter boat fishery.

(ii) The Department shall provide in its regulations for reallocation of any authorizations that may be revoked or voluntarily relinquished to the Department.

(iii) The Department shall provide in its regulations for the allocation of any available quota on a monthly basis to ensure that all areas of the State have ample opportunity to attain an equitable portion of the available quota.

(k) (1) A license or authorization may be transferred only under the provisions of this subsection.

(2) A person who desires to obtain a license or authorization by transfer under this subsection shall, for each license or authorization applied for:

(i) Pay a \$50 application fee; and

(ii) Submit a completed application to the Department.

(3) The Department shall review and may approve the permanent transfer of a license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother, grandparent, aunt, uncle, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, or brother-in-law.

(4) (i) On the death of a licensee, the Department shall review and may approve the permanent transfer of a license or authorization to the person indicated on the beneficiary form submitted by the deceased licensee.

(ii) The personal representative of the estate of the deceased licensee may retain the license or authorization for 2 years from the date of appointment as personal representative if:

1. The deceased licensee did not indicate a license beneficiary;

2. The Department determines that the license beneficiary is not qualified to receive the license or authorization; or

3. The license beneficiary does not accept the license or authorization.

(iii) On appointment, the personal representative shall notify the Department of the appointment and the intent to retain the license or authorization.

(iv) A license or authorization retained under this paragraph may be renewed annually as required by this title.

(v) Before the end of the 2-year period, the personal representative may submit a completed transfer application to transfer the license or authorization to a qualified individual.

(vi) If a license or authorization is not transferred under subparagraph (i) of this paragraph, and a transfer application is not submitted under subparagraph (ii) of this paragraph, the license or authorization is void.

(vii) A person may not operate under the license or authorization of the deceased licensee without approval of the application by the Department.

(5) (i) Twice per license year, the Department may approve a temporary transfer of a license or authorization for not more than the remainder of the license year.

(ii) A temporary transferee who is convicted or receives an accepted plea of nolo contendere for a violation of federal or State fisheries law that results in a license suspension or revocation may not engage in that fishing activity or receive a transfer of a tidal fish license during the period of suspension or revocation.

(6) The Department may approve the permanent transfer of a license or authorization under this subsection from a person who has held a valid tidal fish license for at least 2 years to a person who provides a notarized bill of sale for the license or authorization being transferred.

(7) (i) Except for a fishing guide licensee or a master fishing guide licensee, a licensee may allow one individual to use the licensee's commercial fishing vessel to engage in activities authorized under the license if:

1. The licensee's commercial fishing vessel number is registered on the license; and

2. The licensee has identified the assigned individual to the Department on a form provided by the Department.

(ii) A licensee may change the assignment once per license year.

(iii) If a licensee allows an individual to utilize a vessel under this paragraph, the individual and the licensee shall be held responsible for any violations committed by the individual using the vessel.

(l) (1) Notwithstanding the qualification criteria for a license and authorization to engage in an activity under this section, licensees may renew a harvester registration and any valid existing authorizations on their licenses annually.

(2) (i) Application to renew a tidal fish license shall be made not later than August 31, or the next business day in the instance that the Department is not open, for the following license year.

(ii) The Department may not accept application for renewal after that date, as stated in subparagraph (i) of this paragraph unless:

1. Application is made by March 31, or the next business day in the instance that the Department is not open, of the following license year;

2. The applicant shows good cause why application was not made by August 31 of the previous license year; and

3. A late fee of \$50 is paid by the applicant in addition to the license fee.

(m) (1) (i) A licensee who possesses an unlimited tidal fish license under subsection (d)(2)(ii)2F of this section may relinquish the unlimited tidal fish license and receive one or more authorizations under subsection (d)(2)(ii)1A through E of this section.

(ii) If the fee for an unlimited tidal fish license is less than the total of the fees for authorizations received by a licensee under subparagraph (i) of this paragraph, the licensee shall pay to the Department an amount equal to the

difference between the fee for the unlimited tidal fish license and the total of the fees for the authorizations received.

(2) The Department shall adjust the number of authorizations under subsection (d)(2)(ii) of this section to reflect the number of license conversions under paragraph (1) of this subsection.

(n) (1) In addition to any other penalty provided in this title, the Department may suspend or revoke a person's entitlement to engage in a particular activity or activities under a tidal fish license.

(2) During a period of suspension or revocation imposed by the Department, the person penalized is not and shall not be authorized under any existing, renewed, transferred, or new tidal fish license to engage in the particular activity or activities for which the suspension is imposed.

(3) The following are grounds for suspension or revocation of a tidal fish license:

(i) Making any false statement in an application for a tidal fish license;

(ii) A serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of nolo contendere;

(iii) Failure to submit reports required by the provisions of this title or by the Department pursuant to provisions of this title; or

(iv) Failure for a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4-1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated;

(iii) Suspension or revocation of a license or authorization for a serious violation of a State or federal commercial fisheries law that results in an individual receiving a conviction or an accepted plea of nolo contendere;

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) (i) Before the suspension or revocation of a tidal fish license under this section, the Department shall notify the licensee in writing of the licensee's right to a hearing on request.

(ii) If a licensee submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a commercial license issued under this title without a hearing if:

1. The licensee does not submit a written request for a hearing; or

2. The licensee fails to appear for a scheduled hearing for which the Department provided notice.

(o) (1) If a person is engaged in an activity for which a license or authorization is required under this section, the person shall possess:

(i) Any required license, authorization, registration, or permit; and

(ii) For a person to whom a license or authorization has been temporarily transferred, documentation indicating the Department's approval of the temporary transfer application.

(2) (i) This paragraph does not limit the Department's authority to inspect books, statements, and accounts under § 4-206(b) of this title.

(ii) The licensee or any person to whom a licensee has transferred a license under subsection (k) of this section shall allow any police officer, at reasonable times, including when the licensee or person is engaged in an activity that requires a license under this section, to inspect:

1. The license, authorization, or permit;
2. Any applicable application to transfer the commercial tidal fish license approved by the Department for a temporary transfer;
3. Commercial fishing vessels;
4. Vehicles used to transport fish for commercial purposes; and
5. Fish businesses owned or operated by a person licensed under this section.

(iii) Inspections of vessels, vehicles, and businesses authorized under this paragraph shall be restricted to inspections of fishing gear and places where fish may be stored.

(iv) Inspections of businesses authorized under this paragraph may be conducted in any building other than a dwelling house.

(3) (i) An inspector may seize fishing gear or fish found during an inspection under this subsection that is used or possessed in connection with a violation of this title or a regulation adopted under this title.

(ii) Fishing gear seized under this paragraph shall be held by the Department pending disposition of court proceedings, and on conviction the property seized or proceeds from the seizure shall be forfeited to the State for destruction or disposition as the Department may deem appropriate.

(iii) The Department may dispose of fish seized under this paragraph at its discretion.

(p) The Department shall assign a permanent identification number to each licensee. A licensee shall display the identification number on every vessel, vehicle, gear, or place of business, as the Department may require by regulation.

(q) The Department shall:

(1) Deposit to the credit of the Fisheries Research and Development Fund all fees received for tidal fish licenses, authorizations, and permits under this section; and

(2) Use the funds received from the sale of striped bass surcharges for striped bass management and enforcement purposes.

(r) (1) This subsection applies only to a person who, on April 1, 1997:

(i) Held a valid fishing guide license; and

(ii) Either:

1. Owned two or more vessels used to carry passengers for fishing;

2. Owned or operated a federally licensed vessel of 50 tons or more that was used to carry passengers for fishing; or

3. Owned or operated a marina from which 10 or more vessels operate to carry passengers for fishing.

(2) A person who meets the requirements of paragraph (1) of this subsection may obtain an annual master fishing guide license by:

(i) Filing an application on a form provided by the Department;

(ii) Supplying with the application proofs of ownership of the required vessels; and

(iii) Paying the master fishing guide license fee set forth in subsection (d)(2)(ii)1 of this section.

(3) A person holding a master fishing guide license may:

(i) Employ other persons to guide fishing parties on vessels owned by the master fishing guide; and

(ii) Allow a person who holds a valid Coast Guard license to operate a vessel to carry passengers for fishing from the marina owned or operated by the master guide license holder authorized under paragraph (1)(ii)3 of this subsection as follows:

1. One person for 10 vessels;
2. Two persons for 11 to 20 vessels;
3. Three persons for 21 to 30 vessels;
4. Four persons for 31 to 40 vessels;
5. Five persons for 41 to 50 vessels; and
6. Six persons for 51 or more vessels.

(4) (i) The Department shall issue a number of copies of the master fishing guide license corresponding to the number of vessels owned or operated by the master fishing guide, with each copy bearing the registration number of one of the vessels.

(ii) The master fishing guide shall ensure that when a vessel is operated, the appropriate copy of the license is on board.

(5) If a master fishing guide employs another person to operate a vessel to carry passengers for fishing, for purposes of the license suspension criteria in subsection (n) of this section, the master fishing guide shall be held responsible for any violations committed by the person employed to operate the vessel.

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